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SUBJECT: VIETNAMESE LEGISLATURE TACKLES IPR, CHIDES GOVERNMENT OVER
CHINESE MINING CONCESSIONS

REF: A) Hanoi 184 (Vietnam Should Remain On Special 301);
B) Hanoi 417 (Vietnam's Plans for Bauxite Exploitation);
C) 08 Hanoi 1298 (National Assembly Grills GVN on SOEs)

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¶1. (U) SUMMARY. Vietnam's National Assembly enacted substantial reforms to its IPR regime in its first session of the year from May to June, 2009, amending its IPR Law, Criminal Code and Cinema Law. The reforms should provide greater market access for U.S. films and penalized commercial-scale IPR violations, albeit for a limited number of infringing acts. The Legislature also raised concerns over Chinese workers, especially in the bauxite mining project in the Central Highlands and criticized rice export quotas. It revised tax laws, heeding criticism from foreign firms that current rules could put Vietnam at a competitive disadvantage with its neighbors. The National Assembly also removed several offences from the list of crimes punishable by death, but maintained capital punishment for drug trafficking. END SUMMARY.

IPR LAWS REFORMED

¶2. (U) The National Assembly revised several provisions of its intellectual property rights (IPR) regime, including amendments to the Criminal Code, the IPR Law, and the Cinematography Law which had been the subject of many discussions with the USG at Trade and Investment Framework Agreement talks and during Bilateral Trade Agreement and WTO accession negotiations (REF A).

¶3. (U) The amendment to the Cinematography Law puts importing and exporting movies under the Import/Export Law, effectively lifting previous quotas on the number of imported foreign films. It also allows local movie distribution and production companies to enter joint ventures with foreign companies, with a cap on foreign equity at 51%.

¶4. (U) The legislative changes criminalized IPR violations on a commercial scale, but reduced the number of infringing acts to copying works and distributing the copies. In the IPR Law, the National Assembly reduced the number of triggers for starting an enforcement action from four to three. The IPR law also extended

copyright protection to 75 years beyond the life of the artist for works such as cinematography, photography, and applied art.

CHINESE WORKERS AND CHINESE MINING

¶15. (U) The National Assembly added its voice to those expressing alarm over the Government of Vietnam's (GVN) concessions to foreign mining firms in the Central Highlands (REF B). Although the Assembly cited environmental dangers and an influx of illegal workers, it was clear that the concerns related to having Chinese companies construct and operate bauxite processing facilities in one of Vietnam's most sensitive national security areas. Legislators pointedly questioned Labor Minister Nguyen Thi Kim Ngan on foreigners working illegally in Vietnam and asked her to crack down on them.

¶16. (U) Deputies also demanded an explanation from Trade and Industry Minister Nguyen Huy Hoang and Deputy Prime Minister Nguyen Sinh Hung on why the GVN had not consulted the National Assembly before signing contracts with a Chinese firm to construct the first bauxite processing facility. They criticized the GVN for purposely splitting up the larger, proposed \$15 billion project into concessions smaller than VND20 trillion (\$1.2 billion), the threshold level that would have required approval by the National Assembly. The delegates even cited a Communist Party resolution which stressed that the bauxite concessions lie in a significant and sensitive area for national defense.

CRITICISM OVER RICE EXPORT POLICIES

¶17. (U) Legislators also took the GVN to task for its clumsy management of rice exports. GVN policy is widely believed to have

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caused significant losses to farmers during the last two years (Septel). Trade Minister Hoang said that the GVN would consider reforming the Vietnam Food Association, which controls and licenses rice exports. Deputies also called on the government for more investment in rural areas and agriculture, and easier access for farmers to existing economic stimulus programs.

RURAL OVERDEVELOPMENT

¶18. (U) The deputies also criticized the GVN for promoting development, including golf courses, that allowed expropriation of rural farm land. Planning and Investment Minister Vo Hong Phuc admitted that the number of golf courses in operation and planned, 166 in total, was excessive, and vowed to tighten up standards. Owners of expropriated land have held protests to criticize what they consider unfair compensation.

¶19. (U) As part of the government's stimulus package to cope with the global crisis, a proposal by the Ministry of Finance to exempt taxpayers, local and foreign, from personal income tax for the first six months of 2009, and for capital investment, capital transfer, royalty and franchising for the whole year was approved at this session of the National Assembly. The Assembly also declared non-taxable many expatriate benefits that foreign chambers of commerce had warned would place Vietnam at a disadvantage with its competitors.

ADJUSTMENTS TO SOCIO-ECONOMIC TARGETS

¶10. (U) The National Assembly made several adjustments to 2009's socio-economic targets adopted in the second National Assembly session of 2008 (REF C). Those target adjustments included the GDP growth rate, from 6.5% to 5%, the export revenue growth rate from 13% to 3%, and CPI from below 15% to below 10%. The budget deficit was raised from 4.8% percent of GDP to less than 7.0% of GDP.

Number of Capital Crimes Reduced

¶11. (SBU) The National Assembly also removed several offences from the list of crimes punishable by death, but maintained capital punishment for drug trafficking. In addition to rape, deputies voted to remove six other offences from the list: awarding of bribes, counterfeiting of money and bonds, hijacking ships and planes, destruction of weapons and military equipment, and appropriation of property through swindling. The amendments were controversial, with lively debate particularly about rape and drug trafficking. A draft amendment presented to the deputies had proposed removing eight crimes from the list, including drug trafficking, but deputies rejected the move. The amendments to the penal code take effect January 1 next year.

COMMENT: A SAFEHAVEN FOR OPEN DISSENT, NO TALK ON CORRUPTION

¶12. (SBU) Comment: The National Assembly was in a feisty and confrontational mood again, a trend that has been in evidence over the last two to three years. The legislators seem to relish the opportunity to censure GVN figures openly (even calling the Labor Minister "heartless" to her face) to widespread TV and newspaper coverage. The media encourages considerable posturing, and the legislators' rants against illegal (Chinese) labor and golf courses seemed aimed for public consumption. Unlike in previous years, the legislators did not call for SOE reforms or criticize corruption.

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